

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**DENNIS WAYNE BURTON,**

**PLAINTIFF,**

**VS.**

**CIVIL ACTION NO. 2:06CV216-P-A**

**CITY OF SENATOBIA, MISSISSIPPI;  
SAMMY WEBB, CHIEF OF POLICE for  
the City of Senatobia, Mississippi in His  
Official and Individual Capacities; OFFICER  
GARY RIALES, in His Official and  
Individual Capacities; and JOHN DOE  
DEFENDANTS “A” THROUGH “Z,”**

**DEFENDANTS.**

**FINAL JUDGMENT**

In accordance with a Memorandum Opinion issued this day, **IT IS ORDERED AND  
ADJUDGED** that:

- (1) Defendants’ Motion for Summary Judgment [39] is **GRANTED**; therefore,
- (2) The plaintiff’s State law claims of assault and battery, gross negligence, and deprivation of rights under the Mississippi Constitution against all defendants are **DISMISSED WITH PREJUDICE**;
- (3) The plaintiff’s federal § 1983 claims against the City of Senatobia, Mississippi and Chief Sammy Webb and Officer Gary Riales in their official capacities for denial of the right to counsel, excessive punishment, failure to train, and excessive force are **DISMISSED WITH PREJUDICE**;
- (4) The plaintiff’s federal § 1983 claims against the City of Senatobia, Mississippi and Chief Sammy Webb and Officer Gary Riales in their official capacities for unlawful arrest, denial of due process, and unreasonable search and seizure are **DISMISSED WITHOUT PREJUDICE** until the plaintiff can satisfy the requirements of *Heck v. Humphrey*, 512 U.S. 477, 486-97 (1994) and the *Roquer/Feldman* doctrine discussed in the Memorandum Opinion;

(5) The plaintiff's federal § 1983 claims against Chief Sammy Webb in his individual capacity are **DISMISSED WITH PREJUDICE** pursuant to the doctrine of qualified immunity;

(6) The plaintiff's federal § 1983 claims against Officer Gary Riales in his individual capacity for unlawful arrest and unreasonable search and seizure are **DISMISSED WITHOUT PREJUDICE** until the plaintiff can satisfy the *Heck* doctrine and the *Rooker/Feldman* doctrine;

(7) The plaintiff's federal § 1983 claims against Officer Gary Riales in his individual capacity for excessive force is **DISMISSED WITH PREJUDICE**; therefore,

(8) This case is **CLOSED**.

**SO ORDERED** this the 3<sup>rd</sup> day of March, A.D., 2008.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE